

REMARKS

In the Office Action mailed March 21, 2008, the Office noted that claims 25-48 were pending and rejected claims 25-48. Claims 25-35 and 45-48 have been amended, no claim has been canceled, and, thus, in view of the foregoing, claims 25-48 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

REJECTIONS under 35 U.S.C. § 101

Claims 25-33 and 45-47 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. As regards claims 25-33, the Office asserts that the claims recite nothing but the physical form of energy.

The Applicants have amended claims 25-33 in conformity with the comments of the Examiner on page 3, 3<sup>rd</sup> paragraph of the Office Action. Claim 25 now recites "[a] computer readable storage medium on which an entire stream including a plurality of portion streams, each of which comprises content information constructing a series of contents, is multiplexed-and-recorded by a unit of packet, which is a physically accessible unit."

As regards claims 45-47, the claims have been amended to recite "[a] computer program recorded on a computer readable storage medium for controlling record and reproduction and for tangibly embodying a program of instructions executable by a computer." Thus, the claims recite an article of manufacturer,

one of the four types of statutory subject matter, and are therefore statutory.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 112

Claims 25, 34, 35, 45 and 48 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office points out an antecedent basis issue in the claims. The Applicants have amended the claims to remove the deficiency.

Withdrawal of the rejections is respectfully requested.

DOUBLE PATENTING

Claims 25-48 stand provisionally rejected under the judicially created nonstatutory double patenting rejection.

The Office rejects claims 25-48 provisionally over claims 22-42 of co-pending Application No. 10/504,817. The Applicants note that the Office must have intended to state Application No. 10/504,745 as Application No. 10/504,817 is the present application.

Claim 26 stands provisionally rejected over claim 22 of co-pending Application No. 10/504,475 in view of Kato, U.S. Patent No. 6,950,604. Applicants note that the Office must have intended to state Application No. 10/504,745.

Claim 32 stands provisionally rejected over claim 22 of co-pending Application No. 10/504,475. Applicants note that the Office must have intended to state Application No. 10/504,745.

The Applicants file a Terminal Disclaimer herewith with regards to co-pending Application No. 10/504,745.

Claim 33 stands provisionally rejected over claim 7 of co-pending Application No. 10/329,769.

However, co-pending Application No. 10/329,769 does not disclose a novel feature of the present application "discontinuity information" described in claim 34 where claim 33 as amended depends on. Therefore, claim 33 of the present Application is different from claim 7 of co-pending Application No. 10/329,769 in the presence of the "discontinuity information". The presence of "discontinuity information" is necessary and important to archive a novel effect that "even in the case of editing such complicated contents that one show or program is constructed from the plurality of portion streams on the basis of the transport stream of the MPEGG 2 or that the plurality of programs are multiplexed and recorded, it is possible to edit them by relatively processing" which is described in page 13, lines 11-21 of the Specification.

Thus, claim 33 of the present Application is not the same as nor does it encompass claim 7 of co-pending Application No. 10/329,769 because of "discontinuity information" feature.

Withdrawal of the provisional rejection over pending Application No. 10/329,769 is respectfully requested.


SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 101 and 112. It is also submitted that claims 25-48 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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**Appendix:**

The Appendix includes the following item:

- terminal disclaimer